

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**UNITED STATES OF AMERICA.**

**Plaintiff,**

**VS.**

**CARLOS MARTINEZ-MONZON.**

**Defendant.**

**8:11CR208**

## ORDER

This matter is before the court on the motion for severance ([Filing No. 17](#)) filed by defendant Carlos Martinez-Monzon (Martinez-Monzon). Martinez-Monzon is charged in Count I of the Indictment together with co-defendant Juan Tenorio-Melendez (Tenorio-Melendez) with a conspiracy to distribute and possess with intent to distribute methamphetamine during the period of January 2011 through May 12, 2011, in violation of [21 U.S.C. § 846](#). Tenorio-Melendez is charged alone in Counts II, III, and IV with the distribution of methamphetamine and in Count V with the possession with intent to distribute methamphetamine all in violation of [21 U.S.C. § 841\(a\)\(1\)](#). Martinez-Monzon is charged alone in Count VI with the distribution of methamphetamine and in Counts VII and VIII with the possession with intent to distribute methamphetamine all in violation of [21 U.S.C. § 841\(a\)\(1\)](#).

Martinez-Monzon seeks an order severing his trial from that of his co-defendant Tenorio-Melendez pursuant to Fed. R. Crim. P. 14(a), since Tenorio-Melendez had made various statements during and after the alleged conspiracy which the government intended to use at trial. The court held a hearing on the motion on August 30, 2011. The court received into evidence a copy of Omaha Police Department (OPD) Supplemental Reports (Exhibit 101). A transcript of the hearing was filed on September 8, 2011 ([Filing No. 26](#)).

While the post-arrest statements of Tenorio-Melendez would pose a problem under *Bruton v. United States*, 391 U.S. 123 (1968), Tenorio-Melendez is scheduled for a change of plea before Chief Judge Bataillon on October 14, 2011 (Filing No. 27). Accordingly, the court finds Martinez-Monzon's motion to sever to be moot.

**IT IS ORDERED:**

Martinez-Monzon's motion to sever ([Filing No. 17](#)) is denied without prejudice.

**ADMONITION**

Pursuant to [NECrimR 59.2](#) any objection to this Order shall be filed with the Clerk of the Court within fourteen (14) days after being served with a copy of this Order. Failure to timely object may constitute a waiver of any such objection. The brief in support of any objection shall be filed at the time of filing such objection. Failure to file a brief in support of any objection may be deemed an abandonment of the objection.

DATED this 23rd day of September, 2011.

BY THE COURT:

s/Thomas D. Thalken  
United States Magistrate Judge